

**Chapter ~~236-2282-60~~ WAC**  
**SELF-INSURANCE REQUIREMENTS AS TO LOCAL GOVERNMENTS AND**  
**NONPROFIT CORPORATIONS**

**Last Update: 8/3/93**

**WAC ~~236-2282-60-010~~ Preamble and authority.** These rules ~~and regulations~~ governing ~~for~~ local government ~~and nonprofit~~ self-insurance transactions are adopted by the state risk manager to ~~implement chapter 48.62 RCW relating to~~ ~~regulate~~ the management and operations of both ~~individual and joint local government~~ ~~self-insurance~~ ~~self-insured~~ health and welfare benefit and property and liability ~~risk~~ ~~self-insurance~~ programs and nonprofit property and liability self-insurance programs. ~~The rules set forth in this chapter do not supersede the rules which govern the operation of self-insured employee benefit plans by school districts and educational service districts under chapter 392-130 WAC.~~

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-010, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-010, filed 6/3/92, effective 7/1/92.]

**NOTES:**

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC ~~236-2282-60-020~~ Definitions.** (1) "Actuary" means any person who is qualified under WAC 284-05-060 to provide actuarial services.

(2) "Assessment" means the monies paid by the members to a joint self-insurance program.

(3) "Beneficiary" means any individual entitled ~~under a local government self-insurance program for health and welfare benefits~~, to payment of all or part of a covered claim under a local government health and welfare self-insurance program.

(4) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(5) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event such as (a) for health and welfare benefits, a covered service or services being delivered; or (b) for property and liability, the destruction or damage of property or related deaths or injuries. Unless specifically referenced, the term "claim" is used for both health and welfare and property and liability programs.

(6) "Competitive process" means a documented formal process providing ~~an equal~~ fair and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the party's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation

requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(7) "Contribution" means the amount paid or payable by the employee into a health and welfare self-insurance program.

(8) "Incurred but not reported, or IBNR" ~~shall mean~~ claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include (a) known loss events that are expected to be presented later ~~presented to be as~~ claims, (b) unknown loss events that are expected to become claims, and (c) expected future development on claims already reported.

(9) "Individual self-insurance program" means a program established and maintained by a local government entity to self-insure health and welfare benefits or property and liability risks on its own behalf.

(10) "Joint self-insurance program" means any two or more local government entities, two or more nonprofit corporations or a combination of local government entities and nonprofit corporations which have entered into a cooperative risk sharing agreement pursuant to the provisions of the Interlocal Cooperation Act (chapter 39.34 RCW) and/or subject to regulation under chapter 48.62 RCW.

(11) "Liability for unpaid claims" means the amount needed to provide for the estimated ultimate cost of settling claims which have occurred on or before a particular date. The estimated liability includes the amount of money that will be needed for future payments on both claims which have been reported and IBNR claims.

(12) "Liability for unpaid claim adjustment expenses" means the amount needed to provide for the estimated ultimate costs required to investigate and settle claims for covered events that have occurred on or before a particular date, whether or not reported to the government entity or nonprofit corporation at that date.

(13) "Member" means a local government entity or nonprofit corporation that ~~which~~ is a past or present ~~legal~~ participant in a ~~local government~~ joint self-insurance program subject to regulation under chapter 48.62 RCW.

(14) "Nonprofit corporation", as defined in RCW 24.03.005(3), means a corporation no part of the income of which is distributable to its members, directors or officers.

~~(1415)~~ "Self-insurance program" means any individual or joint local government entity or nonprofit corporation self-insurance program ~~subject to regulation under~~ required by chapter 48.62 RCW to comply with chapter 82-60 WAC.

~~(1516)~~ "Stop-loss insurance" means insurance against the risk of economic loss assumed under a self-insurance program.

(~~4617~~) "Third party administrator" means:

- a) An independent association, agency, entity or enterprise which, through a contractual agreement, is responsible for the overall operational and financial management of the self-insurance program; or
- b) An independent association, agency, entity or enterprise which, through a contractual agreement, provides a professional service for the analysis, design, implementation, or termination of a self-insurance program; or
- c) An independent association, agency, entity or enterprise which, through a contractual agreement, administers the claim payment process on behalf of a self-insurance program. Such claim administration process includes, but is not limited to, receiving requests for claim payments, investigation, verification and adjustment of the claim. Claim payment disbursement is also considered an administrative process.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-020, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-030 Adoption of program.** (1) All self-insurance programs shall provide that the governing body of the local government entity or nonprofit corporation establishing or maintaining a program adopt the self-insurance program by resolution or ordinance. The resolution or ordinance shall include but not be limited to funding and expenditure mechanisms. ~~Self-insurance programs in operation on January 1, 1992 shall meet the requirements of this subsection no later than December 31, 1994.~~

(2) The interlocal agreement of a joint self-insurance program shall be adopted by resolution or ordinance by each participating member's governing body.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-030, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-031 Program financing.** (1) All self-insurance programs shall provide for program financing to pay claims, claims adjustment expenses and the liability for unpaid claims and claims adjustment expenses as they become payable.

(2) All self-insurance programs shall provide a method by which the program financing will be adjusted when it has been determined to be actuarially insufficient, or when the program is unable to meet debts as they become payable. Any increases shall be large enough to make the program actuarially sufficient.

(3) ~~All~~ The claim expense and liability levels of all individual self-insurance programs, and joint health and welfare medical self-insurance ~~program's programs~~ and ~~all~~ joint property and liability self-insurance ~~program's claim financing levels programs~~ shall be determined annually by an actuary's actuary recommendation, unless these self-insurance programs purchase annual aggregate stop-loss insurance and ~~funds fund~~ the

self-insured portion to the stop-loss insurance attachment point. The state risk manager may require an individual and a joint self-insurance program to perform an actuarial study when the state risk manager determines such a study is necessary to analyze the program's soundness and financial safety.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-031, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60-032~~ Nondiscrimination in contributions.** Contribution rate schedules for individual and joint health and welfare self-insurance programs shall be consistent and nondiscriminatory among beneficiaries of the self-insurance program. This provision is not intended to prohibit choice of coverage for beneficiaries, classes of beneficiaries, or bargaining groups from several offered by the self-insurance program, or to prohibit different contribution schedules between classes of beneficiaries or bargaining groups.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-032, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60-033~~ Nondiscrimination in joint program assessments.** Joint self-insurance program assessment formula shall be consistent and nondiscriminatory among new and existing members. Joint self-insurance programs shall not engage in practices that set standard assessment rates lower for new members than those established for existing members.

This provision shall not be construed to prohibit individual choice of coverage by members from several offered by the self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-033, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60-034~~ Disclosures.** (1) All health and welfare self-insurance programs shall furnish each employee or retiree covered by the program a written description of the benefits allowable under the program, together with (a) applicable restrictions, limitations, and exclusions, (b) the procedure for filing a claim for benefits, (c) the procedure for requesting an adjudication of disputes or appeals arising from beneficiaries regarding the payment or denial of any claim for benefits, and (d) a schedule of any direct monetary contributions toward the program financing required by the employee. Such benefits or procedures shall not be amended without written notice to the covered employees and retirees at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

(2) All joint self-insurance programs shall furnish to each member of the program written statements which describe: (a) all coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions; (b) the method by which members pay assessments; (c) the procedure for filing a claim; and (d) the procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues. Such statements shall

not be amended without written notice to the members at least thirty days in advance of the effective date of the change.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-034, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-035 Wellness programs.** Health and welfare self-insurance programs may offer coverage for preventative care, wellness programs, and/or other cost containment measures.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-035, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-036 Termination provisions.** (1) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall maintain a written plan ~~which-that~~ provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedures shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

(2) All joint self-insurance programs shall provide for the termination of membership of a member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-036, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-037 Financial plans.** (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include (a) a procedure for accounting for monies received, payments made and liabilities of the program; (b) an investment policy; and (c) the preparation of accurate annual financial statements of the program.

(2) No financial plan of a self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of liabilities for unpaid claims and claim adjustment expenses.

(3) No financial plan of a joint self-insurance program shall permit loans from assets held against liabilities for unpaid claims and claim adjustment expenses to any member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-037, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-038 Third party administrator contracts.** (1) Before contracting for third party administrator professional services, all self-insurance programs shall establish and maintain written standards and procedures for contracting with third party administrators. Entering a contract for services shall not relieve the entity of its ultimate managerial and financial responsibilities. The procedures shall, as a minimum:

- (a) Provide a method of third party administrator selection using a competitive process;
  - (b) Require a written description of the services to be provided, remuneration levels, and contract period;
  - (c) Provide for the confidentiality and ownership of the information, data and other intellectual property developed or shared during the course of the contract;
  - (d) Provide for the expressed authorization of the self-insurance program to enter the third party administrator's premises to inspect and audit the records and performance of the third party administrator which pertains to the program; and
  - (e) Require the compliance with all applicable local, state and federal laws.
- (2) None of the above shall otherwise relieve the entity from other contracting requirements imposed on those entities.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-038, filed 8/3/93, effective 9/3/93.]

**WAC 82-60-039 Preparation for incorporation of nonprofit corporation members.**  
Joint property and liability self-insurance programs whose members are local government entities that are preparing to include nonprofit corporations as members of the program shall, as a minimum, address the following in their plan of operation:

- (a) Amount of capitalization each nonprofit corporation will pay to become a member of the self-insurance program;
- (b) Self-insured retention level for the nonprofit corporation becoming a member of the self-insurance program;
- (c) Flexibility in premium assessment rates with emphasis on rates for nonprofit corporations that recognizes the potential and actual loss experience of the nonprofit corporation;
- (d) Procedures for reviewing the financial soundness of each nonprofit corporation being considered for membership in the self-insurance program; and
- (e) Representation of nonprofit corporations on the governing board of directors but local government entities must retain control as required by RCW 48.62.121(2)(a).

**WAC ~~236-2282-60~~-040 Risk management.** Individual and joint property and liability self-insurance programs shall have a written risk management program which addresses risk finance, loss control, risk avoidance and risk transfer.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-040, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-050 Claims administration.** (1)(a) All self-insurance programs shall have a written claims administration program ~~which~~that contains, as a minimum, claim filing procedures, internal financial control mechanisms, and claim and claim adjustment expense reports.

(b) All individual and joint health and welfare self-insurance programs and all ~~individual and~~ joint property and liability self-insurance programs shall have a written claim appeal procedure ~~which~~that contains, as a minimum, a time limit for filing an appeal, a time limit for response, and a provision for a second level of review.

(2)(a) All self-insurance programs may contract for claims administration services with a qualified third party administrator; provided all the requirements under subsection (1) above are included in the contract.

(b) Individual and joint property and liability self-insurance programs may perform claims administration services on their own behalf. Individual and joint health and welfare self-insurance programs may perform claims administration services on their own behalf, provided the state risk manager is supplied with documentation and a detailed written explanation in support of the self-insurance program's proposed claims administration activities. The documentation and proposal shall include, as a minimum, the following:

~~1~~i. The nature, type and anticipated volume of claims to be administered.

~~2~~ii. The number of employment positions established or to be established which are required to perform the self-insurance program's ~~claims~~ administration functions, including an organizational chart showing reporting responsibilities.

~~3~~iii. Qualifications of personnel having claim reserving and settlement authority.

~~4~~iv. A projection of expected ~~claims~~ administration expenses.

(3) All self-insurance programs shall have conducted by an independent qualified professional not currently performing claims administration services to the program, a review of claim reserving, adjusting and payment procedures no less than every three years. Such review shall be in writing and retained for a period not less than three years.

(4) Joint self-insurance programs shall maintain a dedicated claim account from which only ~~claims~~ and claim adjustment expenses can be paid.

(5) Joint self-insurance programs shall maintain written claim and claim adjustment expense reports for all claims made against the self-insurance program and, separate written reports for each individual member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-050, filed 8/3/93, effective 9/3/93.]



**WAC ~~236-2282-60-060~~ Financial reports.** (1) Every individual and joint health and welfare self-insurance program and every joint property and liability self-insurance program authorized to transact business in the state of Washington shall record and annually report its revenue, claim and claim expense experience, and other data as required by the state risk manager. Multistate programs shall report both its Washington state revenues, claim and claim expense experience and other data required by the state risk manager and its overall income, claim and claim expense experience. Such reports shall be submitted to the state risk manager no later than one hundred twenty days following the completion of the joint program's fiscal year.

(2) All joint self-insurance programs authorized to transact business in the state of Washington shall submit quarterly financial reports to the state risk manager. Such reports shall be submitted to the state risk manager no later than sixty days following the completion of each of the program's four quarters within its fiscal year.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-060, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60-070~~ State risk manager may waive requirements.** The state risk manager may waive any of the requirements of WAC ~~236-2282-60-030~~ through ~~section~~ WAC ~~236-2282-60-050~~ and ~~236-2282-60-060~~(2) if, in the state risk manager's opinion: (1) Circumstances warrant a waiver, and (2) waiver will not jeopardize the financial condition of the self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-070, filed 8/3/93, effective 9/3/93.]

**WAC 236-22-080 Conflict of interest.** All self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(1) No member of the board of directors; trustee; administrator, including a third party administrator; or any other person having responsibility for the management or administration of a program or the investment or other handling of the program's money shall:

(a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(b) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, administrator, or as an employee.

(c) Have any direct or indirect pecuniary interest in any loan or investment of the program.



(2) No consultant, third party administrator or legal counsel to the self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the self-insurance program and any insurer, health care service contractor, or health care supply provider. This provision shall not preclude licensed insurance brokers or agents from receiving compensation for insurance transactions performed within the scope of their licenses, provided such compensation is disclosed to the self-insurance program's governing body.

(3) No third party administrator shall serve as an officer or on the board of directors of a self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-080, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60~~-100 Expense and operating cost fees.** (1) The state risk manager, with concurrence from the ~~{two}~~ two ~~{property and liability}~~ property and liability advisory board~~s.~~ and the health and welfare advisory board, shall fix ~~{assessments to cover initial expenses and operating costs of the boards and the state risk manager's office in administering chapter 48.62 RCW. Such assessments shall be levied against each joint property and liability self-insurance program and each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Such assessments shall be based upon each self-insurance program's share of the initial expenses and operating costs of the property and liability advisory board, the health and welfare advisory board,}~~ Examination fees ~~shall be~~ shall be based upon actual time and expenses incurred for the review and investigation of every joint property and liability ~~risk self-insurance program~~ risk self-insurance program and every individual and joint health and welfare benefit self-insurance programs by ~~the advisory boards~~ and the state risk manager's office or designee.

(2) The state risk manager, with concurrence from the two advisory boards, shall determine the ~~{assessment rate on a fiscal year basis prescribing the self-insurance program's share pursuant to the provisions of subsection (1) of this section until the regulatory program for local government self-insurance programs is fully implemented.~~

~~—(3) These assessments shall be payable by the assessed program to the state of Washington, division of risk management, on July 1 and January 1 of each year until the regulatory program for local government self-insurance programs is fully implemented. Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment}~~ and the review and investigation fees on a fiscal year basis.

(3) The review and investigation fees shall be paid by the self-insurance program to the state of Washington, ~~department of general administration~~ office of financial management within thirty days of date of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee ~~}~~ is paid.

(4) A self-insurance program ~~[referenced in subsection (1) of this section,]~~ which has voluntarily or involuntarily terminated~~[,]~~ shall ~~[continue to]~~ pay ~~[an administrative cost assessment and. This assessment shall continue until such time as all liabilities and all]~~ ~~[review and investigation fees until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative]~~ responsibilities of the self-insurance program have been satisfied.

(5) The state risk manager~~[shall assess each prospective joint self-insurance program, and each prospective individual health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager, with the concurrence of the advisory boards. Such fee shall be sufficient]~~, with concurrence from the property and liability advisory board and the health and welfare advisory board shall charge an initial investigation fee in an amount necessary~~] to cover the costs for the initial review and approval of [that][a] self-insurance program. [The fee must accompany the initial submission of the plan of operation and management.]~~

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-100, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-100, filed 6/3/92, effective 7/1/92.]

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**WAC ~~236-2282-60-200~~ Appeals of fees.** (1)(a) A self-insurance program which disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

(b) The state risk manager shall review any fee ~~challenged appeal~~ by a self-insurance program, together with the reasons for the ~~challenge appeal~~. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-200, filed 8/3/93, effective 9/3/93.]

**WAC ~~236-2282-60-210~~ Appeals of cease and desist orders.** (1) Within ten days after a joint ~~self-insurance~~ program covering property or liability risks, or an individual or joint ~~self-insurance~~ program covering health and welfare benefits has been served with a cease and desist order under RCW 48.62.091(3), the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapter 34.05 RCW and chapter 10-08 WAC.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-210, filed 8/3/93, effective 9/3/93.]